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8 Attorneys for Defendant/Counter-Plaintiff,
KEATING DENTAL ARTS, INC.

9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION

13 JAMES R. GLIDEWELL DENTAL
14 CERAMICS, INC. dba GLIDEWELL
LABORATORIES,

15 Plaintiff,

16 v.

17 KEATING DENTAL ARTS, INC.

18 Defendant.

19 AND RELATED COUNTERCLAIMS.
20

) Civil Action No.
) SACV11-01309-DOC(ANx)

) **DECLARATION OF DR.**
) **SCOTT STEPHENS IN**
) **SUPPORT OF KEATING**
) **DENTAL ARTS, INC.'S**
) **MOTIONS FOR SUMMARY**
) **JUDGMENT**

) Honorable David O. Carter

1 I, Dr. Scott Stephens, hereby declare as follows:

2 I am a practicing dentist who has purchased dental restorations from
3 Keating Dental Arts, Inc. ("Keating"). My dental office is located at 2538 E.
4 Joyce Blvd., Fayetteville, Arkansas 72703. I have personal knowledge of the
5 matters set forth herein. If called upon to testify, I could and would testify as
6 follows:

7 1. I am licensed to practice dentistry in the state of Arkansas. I
8 received an undergraduate degree from Hendrix College in 1997. I received a
9 Doctor of Dental Surgery from the University of Tennessee in Memphis in
10 2001. I have been practicing as a licensed dentist for 11 years. During that
11 time, it has been a regular part of my practice to treat patients in need of dental
12 restorations.

13 2. To address my patients in need of dental restorations, it has been
14 my practice to purchase crowns and bridges from dental laboratories that
15 manufacture the restorations in response to my specifications. In this regard, I
16 provide the dental laboratories with a prescription form that identifies the
17 patient, the tooth (or teeth), and the specific dental restoration product that I
18 would like manufactured for the patient.

19 3. Since my dental practice began in 2001, I have ordered dental
20 restorations from a number of different dental laboratories. It is important to my
21 dental practice to receive quality products when I order from a dental laboratory
22 and I carefully choose which labs receive my business. I have been ordering
23 dental restorations from Keating since about 2004.

24 4. I have ordered many different types of dental restorations from
25 Keating, including porcelain-fused-to-metal crowns, gold crowns, and crowns
26 containing zirconia.

27 5. The first time I ordered a crown containing zirconia from Keating
28 was in February 2007 when I ordered a "KDZ" crown. In 2007, Keating's

1 “KDZ” crown had a zirconia substructure with a porcelain overlay.

2 6. In 2007 when I ordered Keating’s KDZ crown I recognized the “Z”
3 in the “KDZ” name to be a reference to zirconia, the substance that formed the
4 substructure of the crown.

5 7. The first time I ordered a full contour zirconia crown from Keating
6 was in July 2011 when I ordered what Keating calls a KDZ Bruxer crown. I
7 ordered Keating’s KDZ Bruxer crown for one of my patients because I wanted a
8 monolithic zirconia crown that would be stronger than a crown having a
9 porcelain overlay.

10 8. I learned of Keating’s KDZ Bruxer product from marketing
11 materials which Keating sent me with a previous order.

12 9. More recently, in October 2011, I ordered a KDZ Bruxer crown
13 from Keating for tooth #19 for one of my patients. Attached as **Exhibit A** is a
14 true and correct copy of the Case Prescription form that I submitted to Keating
15 for this order.

16 10. In the order form attached as Exhibit A, I specified the product that
17 I was ordering by writing “Please Fabricate KDZ-BRUX-ZIR #19” in the “Case
18 Notes” section of the form. I wrote “KDZ-BRUX-ZIR” on the prescription form
19 because “KDZ” indicated Keating Dental’s Zirconia product and the term
20 “BRUX-ZIR” meant a full contour zirconia crown for bruxers. The term
21 “BRUX-ZIR” itself did not identify any company as the source of the zirconia
22 crown. I knew I was ordering the crown from Keating and I wanted to receive a
23 crown made by Keating.

24 11. When I wrote “BRUX-ZIR” on the prescription form, I did not
25 intend to order a crown made by Glidewell Laboratories. Nor did I intend to
26 order a crown made from material provided by Glidewell Laboratories. When
27 ordering the KDZ Bruxer crown, I did not think there was any affiliation
28 between Keating and Glidewell Laboratories.

1 12. From my dental training and experience, when I see the term
2 "bruxzir" used with a dental product, I readily recognize that "brux" is a
3 reference to product being directed at treating bruxism. I further recognize that
4 "zir" is a reference to the material zirconia. Thus, to me a "bruxzir" crown is a
5 reference to a crown used for bruxism patients made of zirconia. When I have
6 heard the term "bruxzir" pronounced, it is pronounced the same as "bruxer," the
7 term used in the dental industry to identify a patient who has bruxism.

8 13. Soon after sending the prescription form attached as Exhibit A to
9 Keating, I was contacted by a Keating employee to clarify my order.
10 Specifically, the Keating employee asked me to confirm that I wanted to order
11 Keating's KDZ Bruxer product. The Keating employee explained that the term
12 "BruxZir" is a brand name of another dental laboratory, and the employee
13 offered to return the order to me if I wanted to order from another dental
14 laboratory. I confirmed that I wanted to order Keating's full contour zirconia
15 crown.

16
17 I declare under penalty of perjury under the laws of the United States of
18 America that the foregoing is true and correct.

19 Executed November 13, 2012, in Fayetteville, Arkansas.

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21 
22 Dr. Scott Stephens
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28

EXHIBIT A

CASE PRESCRIPTION

SHIP FROM:

Ozark Dental Care, Inc.
2538 E. Joyce Blvd.
Fayetteville, AR 72703

PATIENT:

REDACTED

PROVIDER:

Scott J Stephens, DDS

EST. RETURN DATE: 11/04/2011

CALL DOCTOR: NO

EMERGENCY: NO

ENCLOSURES:

SHIP TO:

Keating Dental Arts
16881 Hale Ave.
Irvine, CA 92606
(949)955-2100

Tooth #'s:



CASE NOTES:

Please Fabricate KDZ-BRUX-ZIR crown #19 .
Light occlusal contacts,
moderate occlusal anatomy,
anatomic interproximal contacts.
Shade: A1
Porcelain junction margin.
All porcelain coverage.
Light occlusal staining.
Please call if occlusal clearance is compromised.

DOCTOR SIGNATURE:

LICENSE #: 3374

Date: 10/19/2011

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CONFIDENTIAL ATTORNEY'S EYES ONLY

KDA-001951

Exhibit A